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WAL-MART STORES, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

KIMBERLEY MAIN, and EYAD AKEL,
individuals, on behalf of themselves and all others
similarly situated,

Plaintiffs,

vs.

WAL-MART STORES, INC., a Delaware
corporation, and DOES 1 through 50, inclusive,

Defendants.

AND CONSOLIDATED CASES

Case No.: 3:11-cv-01919-JSW

STIPULATED PROTECTIVE ORDER

The Honorable Jeffrey S. White

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation would be warranted.

Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords extends only to the limited

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information or items that are entitled under the applicable legal principles to treatment as confidential. The parties further acknowledge, as set forth in Section 10, below, that this Stipulated Protective Order creates no entitlement to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and reflects the standards that will be applied when a party seeks permission from the court to file material under seal.

2. DEFINITIONS

2.1 Party: any party to this action, including all of its officers, directors, employees, consultants, retained experts, and outside counsel (and their support staff).

2.2 Disclosure or Discovery Material: all items or information, regardless of the medium or manner generated, stored, or maintained (including, among other things, testimony, transcripts, or tangible things) that are produced or generated in disclosures or responses to discovery in this matter.

2.3 "Confidential" Information or Items: information (regardless of how generated, stored or maintained) or tangible things that qualify for protection under standards developed under F.R.Civ.P. 26(c).

2.4 "Highly Confidential – Attorneys' Eyes Only" Information or Items: extremely sensitive "Confidential Information or Items" whose disclosure to another Party or non-party would create a substantial risk of serious injury that could not be avoided by less restrictive means.

2.5 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

2.6 Producing Party: a Party or non-party that produces Disclosure or Discovery Material in this action.

2.7 Designating Party: a Party or non-party that designates information or items that it produces in disclosures or in responses to discovery as "Confidential" or "Highly Confidential — Attorneys' Eyes Only."

2.8 Protected Material: any Disclosure or Discovery Material that is designated as “Confidential” or as “Highly Confidential – Attorneys’ Eyes Only.”

2.9 Outside Counsel: attorneys who are not employees of a Party but who are retained to represent or advise a Party in this action.

2.10 House Counsel: attorneys who are employees of a Party.

2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well as their support staffs).

2.12 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action and who is not a past or a current employee of a Party or of a competitor of a Party’s and who, at the time of retention, is not anticipated to become an employee of a Party or a competitor of a Party’s. This definition includes a professional jury or trial consultant retained in connection with this litigation.

2.13 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their employees and subcontractors.

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also any information copied or extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by parties or counsel to or in court or in other settings that might reveal Protected Material.

4. DURATION

Even after the termination of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection. Each

Party or non-party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. A Designating Party must take care to designate for protection only those parts of material, documents, items, or oral or written communications that qualify – so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or routinized designations are prohibited. If it comes to a Party's or a non-party's attention that information or items that it designated for protection do not qualify for protection at all, or do not qualify for the level of protection initially asserted, that Party or non-party must promptly notify all other parties that it is withdrawing the mistaken designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this

Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated or ordered, material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (apart from transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" at the top of each page that contains protected material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each portion, the level of protection being asserted (either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY").

A Party or non-party that makes original documents or materials available for inspection need not designate them for protection until after the inspecting Party has indicated which material it would like copied and produced. During the inspection and before the designation, all of

the material made available for inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order, then, before producing the specified documents, the Producing Party must affix the appropriate legend (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) at the top of each page that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each portion, the level of protection being asserted (either “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”).

(b) for testimony given in deposition or in other pretrial or trial proceedings, that the Party or non-party offering or sponsoring the testimony identify on the record, before the close of the deposition, hearing, or other proceeding, all protected testimony, and further specify any portions of the testimony that qualify as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” When it is impractical to identify separately each portion of testimony that is entitled to protection, and when it appears that substantial portions of the testimony may qualify for protection, the Party or non-party that sponsors, offers, or gives the testimony may invoke on the record (before the deposition or proceeding is concluded) a right to have up to 20 days to identify the specific portions of the testimony as to which protection is sought and to specify the level of protection being asserted (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”). Only those portions of the testimony that are appropriately designated for protection within the 20 days shall be covered by the provisions of this Stipulated Protective Order.

Transcript pages containing Protected Material must be separately bound by the court reporter, who must affix to the top of each such page the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” as instructed by the Party or non-party offering or sponsoring the witness or presenting the testimony.

(c) for information produced in some form other than documentary, and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the

1 container or containers in which the information or item is stored the legend “CONFIDENTIAL” or
2 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only portions of the information
3 or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected
4 portions, specifying whether they qualify as “Confidential” or as “Highly Confidential – Attorneys’
5 Eyes Only.”

6 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
7 to designate qualified information or items as “Confidential” or “Highly Confidential – Attorneys’
8 Eyes Only” does not, standing alone, waive the Designating Party’s right to secure protection under
9 this Order for such material. If material is appropriately designated as “Confidential” or “Highly
10 Confidential – Attorneys’ Eyes Only” after the material was initially produced, the Receiving Party,
11 on timely notification of the designation, must make reasonable efforts to assure that the material is
12 treated in accordance with the provisions of this Order.

13 14 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

15 6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party’s
16 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary
17 economic burdens, or a later significant disruption or delay of the litigation, a Party does not waive
18 its right to challenge a confidentiality designation by electing not to mount a challenge promptly
19 after the original designation is disclosed.

20 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating
21 Party’s confidentiality designation must do so in good faith and must begin the process by conferring
22 directly (in voice to voice dialogue; other forms of communication are not sufficient) with counsel
23 for the Designating Party. In conferring, the challenging Party must explain the basis for its belief
24 that the confidentiality designation was not proper and must give the Designating Party an
25 opportunity to review the designated material, to reconsider the circumstances, and, if no change in
26 designation is offered, to explain the basis for the chosen designation. A challenging Party may
27 proceed to the next stage of the challenge process only if it has engaged in this meet and confer
28 process first.

1 6.3 Judicial Intervention. A Party that elects to press a challenge to a
2 confidentiality designation after considering the justification offered by the Designating Party may
3 file and serve a motion under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if
4 applicable) that identifies the challenged material and sets forth in detail the basis for the challenge.
5 Each such motion must be accompanied by a competent declaration that affirms that the movant has
6 complied with the meet and confer requirements imposed in the preceding paragraph and that sets
7 forth with specificity the justification for the confidentiality designation that was given by the
8 Designating Party in the meet and confer dialogue.

9 The burden of persuasion in any such challenge proceeding shall be on the
10 Designating Party. Until the court rules on the challenge, all parties shall continue to afford the
11 material in question the level of protection to which it is entitled under the Producing Party's
12 designation.

13
14 7. ACCESS TO AND USE OF PROTECTED MATERIAL

15 7.1 Basic Principles. A Receiving Party may use Protected Material that is
16 disclosed or produced by another Party or by a non-party in connection with this case only for
17 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be
18 disclosed only to the categories of persons and under the conditions described in this Order. When
19 the litigation has been terminated, a Receiving Party must comply with the provisions of section 11,
20 below (FINAL DISPOSITION).

21 Protected Material must be stored and maintained by a Receiving Party at a location
22 and in a secure manner that ensures that access is limited to the persons authorized under this Order.

23 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
24 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
25 disclose any information or item designated CONFIDENTIAL only to:

26 (a) the Receiving Party's Outside Counsel of record in this action, as well
27 as employees of said Counsel to whom it is reasonably necessary to disclose the information for this
28

1 litigation and who have signed the “Agreement to Be Bound by Protective Order” that is attached
2 hereto as Exhibit A;

3 (b) the officers, directors, and employees (including House Counsel) of
4 the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have
5 signed the “Agreement to Be Bound by Protective Order” (Exhibit A);

6 (c) experts (as defined in this Order) of the Receiving Party to whom
7 disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be
8 Bound by Protective Order” (Exhibit A);

9 (d) the Court and its personnel;

10 (e) court reporters, their staffs, and professional vendors to whom
11 disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be
12 Bound by Protective Order” (Exhibit A);

13 (f) during their depositions, witnesses in the action to whom disclosure is
14 reasonably necessary and who have signed the “Agreement to Be Bound by Protective Order”
15 (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions that reveal
16 Protected Material must be separately bound by the court reporter and may not be disclosed to
17 anyone except as permitted under this Stipulated Protective Order.

18 (g) the author of the document or the original source of the information.

19 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
20 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
21 Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY
22 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

23 (a) the Receiving Party’s Outside Counsel of record in this action, as well
24 as employees of said Counsel to whom it is reasonably necessary to disclose the information for this
25 litigation and who have signed the “Agreement to Be Bound by Protective Order” that is attached
26 hereto as Exhibit A;

(b) Experts (as defined in this Order) (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A);

(c) the Court and its personnel;

(d) court reporters, their staffs, and professional vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A); and

(e) the author of the document or the original source of the information.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION.

If a Receiving Party is served with a subpoena or an order issued in other litigation that would compel disclosure of any information or items designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” the Receiving Party must so notify the Designating Party, in writing (by fax, if possible) immediately and in no event more than three court days after receiving the subpoena or order. Such notification must include a copy of the subpoena or court order.

The Receiving Party also must immediately inform in writing the Party who caused the subpoena or order to issue in the other litigation that some or all the material covered by the subpoena or order is the subject of this Protective Order. In addition, the Receiving Party must deliver a copy of this Stipulated Protective Order promptly to the Party in the other action that caused the subpoena or order to issue.

The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to afford the Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from which the subpoena or order issued. The Designating Party shall bear the burdens and the expenses of seeking protection in that court of its confidential material – and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

10. FILING PROTECTED MATERIAL.

Without written permission from the Designating Party or a court order secured after appropriate notice to all interested persons, a Party may not file in the public record in this action any Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5.

11. FINAL DISPOSITION.

Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days after the final termination of this action, each Receiving Party must return all Protected Material to the Producing Party. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries or any other form of reproducing or capturing any of the Protected Material. With permission in writing from the Designating Party, the Receiving Party may destroy some or all of the Protected Material instead of returning it. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the sixty day deadline that identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and that affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or other forms of reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings,

1 motion papers, transcripts, legal memoranda, correspondence or attorney work product, even if such
 2 materials contain Protected Material. Any such archival copies that contain or constitute Protected
 3 Material remain subject to this Protective Order as set forth in Section 4 (DURATION), above.

4
 5 12. MISCELLANEOUS

6 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person
 7 to seek its modification by the Court in the future.

8 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
 9 Order no Party waives any right it otherwise would have to object to disclosing or producing any
 10 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
 11 Party waives any right to object on any ground to use in evidence of any of the material covered by
 12 this Protective Order.

13
 14 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

15
 16 Dated: January 17, 2012

REED SMITH LLP

17
 18 /s/ Scott H. Jacobs

19 Abraham J. Colman
 Scott H. Jacobs
 Brandon W. Corbridge

20 Attorneys for Defendant
 21 WAL-MART STORES, INC.

22 Dated: January 17, 2012

STONEBARGER LAW, APC

23
 24 /s/Gene J. Stonebarger

25 Gene J. Stonebarger
 Richard D. Lambert
 26 75 Iron Point Circle, Suite 145
 Folsom, CA 95630

27 Co-Lead Counsel for Plaintiffs and the Class
 28

1 Dated: January 17, 2012

WESTRUP KLINK LLP

3 /s/Mark L. VanBuskirk

4 Mark L. VanBuskirk
5 R. Duane Westrup
444 W. Ocean Blvd., Suite 1614
Long Beach, CA 90802-4524

6 Co-Lead Counsel for Plaintiffs and the Class

9 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

10 Dated: January 31, 2012

11 
Honorable Jeffrey S. White
United States District Judge

REED SMITH LLP

A limited liability partnership formed in the State of Delaware

EXHIBIT A**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, _____ [print or type full name], of _____
 [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on January __, 2012 in the case of *Main v. Wal-Mart Stores, Inc.*, Case No.: 3:11-cv-01919-JSW. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of _____
 [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
 [printed name]

Signature: _____
 [signature]

PROOF OF SERVICE

I, Candice A. Spoon, declare as follows:

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is REED SMITH LLP, 355 South Grand Avenue, Suite 2900, Los Angeles, CA 90071-1514. On January 18, 2012, I served the following document(s) by the method indicated below:

STIPULATED PROTECTIVE ORDER

<input checked="" type="checkbox"/>	BY CM/ECF ELECTRONIC DELIVERY: In accordance with the registered case participants and in accordance with the procedures set forth at the Court's website www.ecf.cand.uscourts.gov
<input type="checkbox"/>	by transmitting via facsimile on this date from fax number 213.457.8080 the document(s) listed above to the fax number(s) set forth below. The transmission was completed before 5:00 PM and was reported complete and without error. The transmission report, which is attached to this proof of service, was properly issued by the transmitting fax machine. Service by fax was made by agreement of the parties, confirmed in writing.
<input type="checkbox"/>	by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this Declaration.
<input type="checkbox"/>	by placing the document(s) listed above in a sealed envelope(s) and by causing personal delivery of the envelope(s) to the person(s) at the address(es) set forth below. A signed proof of service by the process server or delivery service will be filed shortly.
<input type="checkbox"/>	by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
<input type="checkbox"/>	by placing the document(s) listed above in a sealed envelope(s) and consigning it to an express mail service for guaranteed delivery on the next business day following the date of consignment to the address(es) set forth below. A copy of the consignment slip is attached to this proof of service.
<input type="checkbox"/>	by transmitting via email to the parties at the email addresses listed below:

Gene J. Stonebarger, Esq.
 Richard D. Lambert, Esq.
 Stonebarger Law, APC
 75 Iron Point Circle, Suite 145
 Folsom, CA 95630
 Tel: 916.235.7140
 Fax: 916.235.7141
 Email: gstonebarger@stonebargerlaw.com

Co-Lead Plaintiffs Counsel for consolidated actions:
Kimberley Main, Robin Nelson, Marylynn Grikavicius, Lourdes R. Landeros, and Tina Bauer
 Attorneys for Plaintiff
Robin Nelson

<p>Mark L. VanBuskirk, Esq. R. Duane Westrup, Esq. Westrup Klick LLP 444 W. Ocean Blvd., Suite 1614 Long Beach, CA 90802-4524 Tel: 562.432.2551 Fax: 562.435.4856 Email: jveloff@wkalaw.com</p>	<p>Co-Lead Plaintiffs Counsel for consolidated actions: <i>Kimberley Main, Robin Nelson, Marylynn Grikavicius, Lourdes R. Landeros, and Tina Bauer</i> Attorneys for Plaintiff <i>Marylyn Grikavicius</i></p>
<p>Matthew J. O'Connor, Esq. James Patterson, Esq. Patterson Law Group, APC 402 W. Broadway, 29th floor San Diego, CA 92101 Tel: 619.756.6990 Fax: 619.756.6991 Email: moconnor@hpolaw.com jim@pattersonlawgroup.com</p>	<p>Attorneys for Plaintiff <i>Kimberley Main</i></p>

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed on January 18, 2012, at Los Angeles, California.

/s/ Candice A. Spoon
CANDICE A. SPOON

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